

INSPECTIONS DIVISION

CHAPTER 30
FOOD AND CONSUMER SAFETY

481—30.1(10A) Inspections division. The inspections division inspects food and food service establishments, food and beverage vending machines, hotels, and food service operations in schools, correctional and penal institutions. It also conducts preliminary inspections of places where juveniles live temporarily.

481—30.2(10A) Definitions.

“*Baked goods*” means breads, cakes, doughnuts, pastries, buns, rolls, cookies, biscuits and pies (except meat pies).

“*Bed and breakfast home*” means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than two guest families are lodged at the same time. The facility can advertise as a bed and breakfast home, but not as a hotel, motel or restaurant. The facility is exempt from licensing and inspection as a hotel or as a food service establishment. A bed and breakfast home can serve food only to overnight guests, unless a food service establishment license is secured.

“*Bed and breakfast inn*” means a hotel which has nine or fewer guest rooms.

“*Boarder*” means a person who rents a room, rooms or apartment for at least a week. A boarder is considered permanent and is not a transient guest.

“*Boarding house*” means a house in which lodging is rented and meals are served to permanent guests. A boarding house is not a food service establishment nor hotel unless it rents or caters to transient guests.

“*Contractor*” means a municipal corporation, county or other political subdivision that contracts with the department to license and inspect under Iowa Code chapter 137A, 137B, 137C, 137D or 137E.

“*Criminal offense*” means a public offense, as defined in Iowa Code section 701.2, that is prohibited by statute and is punishable by fine or imprisonment.

“*Department*” means the Iowa department of inspections and appeals.

“*Egg handler*” or “*handler*” means a person who buys or sells eggs or uses eggs in the preparation of human food. An egg handler does not include a food establishment, food service establishment, or home food establishment if they obtain their eggs from a licensed egg handler or supplier which meets standards referred to in rule 481—31.2(137A). Producers who sell eggs produced exclusively from their own flocks directly to egg handlers, or to consumer customers, are exempt from regulation as egg handlers.

“*Farmers market*” means a place which operates seasonally as a common market for fresh fruits and vegetables on a retail basis for consumption elsewhere. Specific items which cannot be sold at such a facility include homemade butter, raw milk, home-canned fruits or vegetables (hermetically sealed containers), meats, meat products, or other potentially hazardous foods.

The following products may be sold at a farmers market without being licensed under Iowa Code section 137A.6 at the market location:

1. Baked goods except the following: soft pies and bakery products with custard or cream fillings, as well as other potentially hazardous items. These products must be labeled in accordance with rule 481—34.3(137D).

2. Wholesome, fresh eggs that are kept at a temperature of 60°F or less.
3. Honey which is labeled per rule 481—34.3(137D).
4. Prepackaged, nonhazardous food products prepared in an establishment licensed under Iowa Code section 137A.6 as a food establishment.
5. Fresh fruits and vegetables.

“*Food establishment*” means a commercial place where (1) animals are killed or dressed for food, except those regulated by Iowa Code chapter 189A, “Meat and Poultry Inspection,” (2) food is stored and sold for consumption elsewhere, or (3) food is prepared and sold for consumption elsewhere. Food establishments include but are not limited to bakeries, confectioneries, canneries, packinghouses or slaughterhouses, meat markets or groceries. Food establishments do not include:

1. Premises covered by a current class “A” beer permit as provided in Iowa Code chapter 123.
2. Farmers markets.
3. Roadside markets which sell only fresh fruits or fresh vegetables on a retail basis for off-the-premises consumption.
4. Premises licensed as home food establishments under Iowa Code chapter 137D.
5. Premises where food is prepared to be used or sold by, or the premises of, churches, fraternal societies, or charitable or civic organizations.
6. Premises of a residence in which nonhazardous baked goods, fresh eggs, or honey are sold.
7. Establishments where only prepackaged and sealed candy bars, gum, fried or oiled snack foods, canned or bottled soft drinks and bagged ice are sold on a retail basis. All items must be obtained from a supplier which meets standards referred to in rule 481—31.2(137A).
8. Premises covered or regulated by Iowa Code section 192.5 with a milk or milk products permit issued by the department of agriculture and land stewardship. This exemption includes milk producers, milk haulers, milk distributors, dairy farms, milk plants, receiving stations and transfer stations as defined in Iowa Code section 192.8.
9. Premises or operations which are regulated by or subject to Iowa Code section 196.3 and which have an egg handler’s license.

“*Food service establishment*” means any place where food is prepared and intended for individual portion service, whether or not there is a charge for the food. The term includes schools and summer camps, but does not include private homes where food is prepared or stored for an individual family to eat. The term does not include child day care facilities or service facilities subject to inspection by other agencies of the state or other divisions of this department and located in health care facilities, or hospitals.

“*Home food establishment*” means a business on the premises of a residence where potentially hazardous bakery goods are prepared for consumption elsewhere. Annual gross sales of these products cannot exceed \$20,000. The term does not include a residence where food is prepared to be used or sold by churches, fraternal societies, charitable, civic or nonprofit organizations. Residences which prepare or distribute honey, eggs or nonhazardous baked goods are not required to be licensed as home food establishments. Honey and baked goods must be labeled pursuant to rule 481—34.3(137D).

“*Hotel*” means any building equipped, used, or advertised to the public as a place where sleeping accommodations are rented to temporary or transient guests.

“*License holder*” means an individual, corporation, partnership, governmental unit, association, or any other entity to whom a license was issued under Iowa Code chapter 137A, 137B, 137C, 137D or 137E.

“*Mobile food unit*” means a food service establishment or food establishment on a vehicle which is easy to move. This vehicle must report to its home base each night for cleaning and servicing.

“*Pushcart*” means a vehicle limited to serving foods not potentially hazardous, or foods wrapped elsewhere and kept at proper temperatures. The vehicle is not self-propelled.

“*Revoke*” means to void or annul by recalling or withdrawing a license issued under Iowa Code chapter 137A, 137B, 137C, 137D, or 137E. The entire application process, including the payment of applicable license fees, must be repeated to regain a valid license following a revocation.

“*Salvage food*” means food from truck wrecks, fires, tornadoes, or other disasters which involve food products.

“*Suspend*” means to render a license issued under Iowa Code chapter 137A, 137B, 137C, 137D, or 137E invalid for a period of time, with the intent of resuming the validity of a license at the end of that period.

“*Temporary food service establishment*” means a service is at a fixed location not longer than 12 days in a row for a single event or celebration.

“*Transient food service establishment*” means a food service establishment which operates at various locations during the year, if the establishment does not operate at one location for more than three consecutive days in conjunction with a single event or celebration.

“*Transient guest*” means an overnight lodging guest who does not intend to stay for any permanent length of time. Any guest who rents a room for more than 31 days is not classified a transient guest.

“*Vending machine*” means any device which, upon insertion of a coin or token, dispenses unit servings of food. The servings are in bulk or in packages which are stored in the device.

481—30.3(137A,137B,137C,137D,137E,196) Licensing. A license to operate any of the above must be granted by the department of inspections and appeals. Application for a license is made on a form furnished by the department which contains the names of the business, owner, and manager; location of buildings; or other data relative to the license requested. Applications are available from the Inspections Division, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.

30.3(1) A license is not transferable. Licenses are not refundable unless the license is surrendered to the department prior to the effective date of the license.

30.3(2) A license is renewable and expires after one year.

30.3(3) A valid license shall be posted no higher than eye level where the public can see it. Vending machines shall bear a tag to affirm the license.

30.3(4) Any change in business ownership or business location requires a new license. Vending machines and transient food service establishments may be moved without obtaining a new license.

Nutrition sites for the elderly licensed under Iowa Code chapter 137B may change locations in the same city without obtaining a new license.

30.3(5) The regulatory authority may require documentation from a license holder of the annual gross sales of food and drink sold by a licensed food establishment or a licensed food service establishment. The documentation submitted by the license holder will be kept confidential and will be used to verify that the license holder is paying the appropriate license fee based on annual gross sales of food and drink. Documentation shall include at least one of the following:

- a. A copy of the firm's business tax return;
- b. Quarterly sales tax data;
- c. A letter from an independent tax preparer;
- d. Other appropriate records.

This rule is intended to implement Iowa Code sections 10A.502(2), 137A.6, 137A.7, 137A.8, 137B.6, 137B.8, 137C.8, 137D.2, 137E.7 and 137E.8.

481—30.4(137A,137B,137C,137D,137E,196) License fees. The license fee is the same for an initial license and a renewal license. Licenses expire one year from the date of issuance, except for temporary food service establishments. Applications for licenses are available from the Department of Inspections and Appeals, Inspections Division, Lucas State Office Building, Des Moines, Iowa 50319-0083; or from a contracting local health department. License fees are set by the Iowa Code sections listed below and charged as follows:

30.4(1) Food establishments are based on annual gross sales of food and drink (Iowa Code section 137A.8) as follows:

- a. For annual gross sales of less than \$10,000—\$20;
- b. For annual gross sales of \$10,000 to \$250,000—\$50;
- c. For annual gross sales of \$250,000 to \$500,000—\$75;
- d. For annual gross sales of \$500,000 to \$750,000—\$100;
- e. For annual gross sales of \$750,000 or more—\$150.

30.4(2) Food service establishments are based on annual gross sales of food and drink for individual portion service (Iowa Code section 137B.7) as follows:

- a. For annual gross sales of less than \$50,000—\$40;
- b. For annual gross sales of \$50,000 to \$100,000—\$70;
- c. For annual gross sales of more than \$100,000 to \$250,000—\$125;
- d. For annual gross sales of \$250,000 or more—\$150.

30.4(3) Food and beverage vending machines, \$2 per machine (Iowa Code section 137E.9).

30.4(4) Home food establishments, \$25 (Iowa Code section 137D.2(1)).

30.4(5) Hotels are based on the number of rooms provided to transient guests (Iowa Code section 137C.9) as follows:

- a. For 1 to 15 guest rooms—\$20;
- b. For 16 to 30 guest rooms—\$30;
- c. For 31 to 75 guest rooms—\$40;
- d. For 76 to 149 guest rooms—\$50;
- e. For 150 or more guest rooms—\$75.

30.4(6) Mobile food unit or pushcart, \$10 (Iowa Code section 137B.7).

30.4(7) Temporary food service establishments issued for up to 12 consecutive days, \$10 for each fixed location (Iowa Code section 137B.7).

30.4(8) Transient food service establishment, \$40 (Iowa Code section 137B.7).

30.4(9) Egg handlers are based on the total number of cases of eggs purchased or handled during the month of April (Iowa Code section 196.3) as follows:

- a. For 0 to 124 cases—\$15;
- b. For 125 to 249 cases—\$35;
- c. For 250 to 999 cases—\$50;
- d. For 1,000 to 4,999 cases—\$100;
- e. For 5,000 to 9,999 cases—\$175;
- f. For 10,000 or more cases—\$250.

For the purpose of determining fees, each case shall be 30 dozen eggs.

481—30.5(137A,137B,137C,137D,137E) Returned checks. If a check intended to pay for any license provided for in these chapters is not honored for payment by the bank on which it is drafted, the department will attempt to redeem the check. The department shall notify the applicant of the need to provide sufficient payment. An additional fee of \$10 shall be assessed for each dishonored check. If the department does not receive cash to replace the check, the establishment will be operating without a valid license.

481—30.6(137A,137B) Double licenses. Any establishment which holds a food service establishment license and grosses over \$20,000 annually in grocery items shall also be required to obtain a food establishment license. The license holder shall keep a record of these food sales and make it available to the department upon request.

A food establishment and a food service establishment which occupy the same premises must be licensed separately and the applicable fees paid. The license fee for each is based on only the annual gross sales of food and drink covered under the scope of that particular type of license. Licensed food establishments serving only coffee, soft drinks, popcorn, prepackaged sandwiches or other food items manufactured and packaged by a licensed establishment need only a food establishment license.

A temporary food service establishment license is not required when the temporary food service establishment is owned and operated on the premises of a licensed food or food service establishment.

This rule is intended to implement Iowa Code sections 10A.502, 137A.6, 137B.6 and 137B.7.

481—30.7(137A,137B,137D,137E,196) Disposal standards. Standards in the 1984 edition of the "Model Food Salvage Code" are used to regulate the disposal of salvaged or distressed merchandise. A copy is available from the Inspections Division of the Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.

481—30.8(137A,137B,137C,137D,137E) Inspection frequency.

30.8(1) Food establishments with an inspection score of 90 or greater shall be inspected at least once biennially. All other food establishments shall be inspected at least once annually.

30.8(2) Food service establishments (except summer camps, schools, vending machine commissaries, substance abuse residential and halfway houses) with an inspection score of 90 or greater shall be inspected at least once biennially. All other food service establishments shall be inspected at least once annually.

30.8(3) Hotels shall be inspected at least once biennially.

30.8(4) Home food establishments and vending operators license holders shall be inspected at least once annually.

30.8(5) Egg handlers shall be inspected at least once annually.

This rule is intended to implement Iowa Code sections 137A.12, 137B.3, 137C.11, 137D.2 and 137E.13.

481—30.9(137B) Inspection notice in food service establishments. This notice, received after an inspection, must be posted at the licensed premises as soon as it is received in a place that is easily seen by the public.

This rule is intended to implement Iowa Code section 137B.10.

481—30.10(137A,137B,137C,137D,137E) Local contracts. The department may contract with municipal corporations to inspect and collect license fees from any establishment covered by these rules. Inspections shall be pursuant to 481—Chapters 30 to 33 and Chapter 37. A list of contracts is available from the Inspections Division, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.

This rule is intended to implement Iowa Code sections 137A.5, 137B.6, 137C.6 and 137E.3.

481—30.11(22) Examination of records. Information collected by the inspections division is considered public information. Records are stored in computer files and are not matched with any other data system. Information is available for public review and will be provided when requested from the office of the director.

481—30.12(137C,137D,137E,196) Denial, suspension or revocation of a license to operate. Notice of denial, suspension, or revocation of a license shall be provided by the department and shall be effective 30 days after mailing or personal service of the notice.

481—30.13(10A) Formal hearing. All decisions of the division may be contested by an adversely affected party. Request for a hearing must be made in writing to the department within 30 days of the mailing or service of a decision. Appeals and hearings are controlled by 481—Chapter 10, “Contested Case Hearings.”

30.13(1) The proposed decision of the hearing officer becomes final ten days after it is mailed.

30.13(2) Any request for administrative review of a proposed decision must:

- a. Be made in writing.
- b. Be filed with the director within ten days after the proposed decision was mailed to the aggrieved party (date of receipt by personal service or the postmarked date is time of filing).
- c. State the reason(s) for the request.

30.13(3) The decision of the director shall be based upon the record and becomes final agency action upon mailing.

481—30.14(137A,137B,137D,137E) False label or defacement. No person shall use any label required by Iowa Code chapter 137A, 137B, 137D, or 137E, which is deceptive as to the true nature of the article or place of production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by these chapters.

This rule is intended to implement Iowa Code sections 137A.5, 137B.3 and 137B.6.

These rules are intended to implement Iowa Code sections 10A.502 and 22.11 and chapters 137A, 137B, 137C, 137D, 137E and 196.

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